

alien's attorney or representative in connection with a request that the revocation of the visa be reconsidered. If the officer finds that the evidence is sufficient to overcome the basis for the revocation, a new visa shall be issued. A memorandum regarding the action taken and the reasons therefore shall be placed in the consular files and appropriate notification made promptly to the carriers concerned, the Department, and the issuing office if notice of revocation has been given in accordance with paragraphs (d), (e), and (f) of this section.

(2) In view of the provisions of §42.71(b) providing for the refund of fees when the visa has not been used as a result of action by the U.S. Government, no fees shall be collected in connection with the application for or issuance of such a reinstated visa.

§42.83 Termination of registration.

(a) *Termination following failure of applicant to apply for visa.* In accordance with INA 203(g), an alien's registration for an immigrant visa shall be terminated if, within one year after transmission of a notification of the availability of an immigrant visa, the applicant fails to apply for an immigrant visa.

(b) *Termination following visa refusal.* An alien's registration for an immigrant visa shall be terminated if, within one year following the refusal of the immigrant visa application under INA 221(g), the alien has failed to present to a consular officer evidence purporting to overcome the basis for refusal.

(c) *Notice of termination.* Upon the termination of registration under paragraph (a) or (b) of this section, the consular officer at the post where the alien is registered shall notify the alien of the termination. The consular officer shall also inform the alien of the right to have the registration reinstated if the alien, before the end of the second year after the missed appointment date if paragraph (a) applies, and before the end of the second year after the INA 221(g) refusal if paragraph (b) applies, establishes to the satisfaction of the consular officer that the failure to apply for an immigrant visa or to present evidence purporting to overcome the ineligibility under INA 221(g)

was due to circumstances beyond the alien's control.

(d) *Reinstatement of registration.* If the consular officer is satisfied that an alien, as provided for in paragraph (c) of this section, has established that failure to apply as scheduled for an immigrant visa or to present evidence purporting to overcome ineligibility under INA 221(g) was due to circumstances beyond the alien's control, the consular officer shall reinstate the alien's registration for an immigrant visa. Any petition approved under INA 204(b) which had been automatically revoked as a result of the termination of registration shall be considered to be automatically reinstated if the registration is reinstated.

(e) *Interpretation of "circumstances beyond alien's control".* For the purpose of this section, the term "circumstances beyond the alien's control" includes, but is not limited to, an illness or other physical disability preventing the alien from traveling, a refusal by the authorities of the country of an alien's residence to grant the alien permission to depart as an immigrant, and foreign military service.

[52 FR 42613, Nov. 5, 1987, as amended at 56 FR 49682, Oct. 1, 1991]

PARTS 43-45 [RESERVED]

PART 46—CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

Sec.

46.1 Definitions.

46.2 Authority of departure-control officer to prevent alien's departure from the United States.

46.3 Aliens whose departure is deemed prejudicial to the interests of the United States.

46.4 Procedure in case of alien prevented from departing from the United States.

46.5 Hearing procedure before special inquiry officer.

46.6 Departure from the Canal Zone, the Trust Territory of the Pacific Islands, or outlying possessions of the United States.

46.7 Instructions from the Administrator required in certain cases.

AUTHORITY: Secs. 104, 215, 66 Stat. 174, 190; 8 U.S.C. 1104, 1185.